HOUSE BILL No. 1714

DIGEST OF INTRODUCED BILL

Citations Affected: IC 2-2.1; IC 4-10-21-0.5; IC 4-13-2-18.

Synopsis: State spending cap. Provides a control on state expenditures for state fiscal years beginning after June 30, 2011, that is based on the change in gross Indiana nonfarm personal income as reported by the United States Department of Commerce, Bureau of Economic Analysis. Requires the budget agency to determine and publish the Indiana nonfarm personal income growth quotient (the IPI growth quotient) in the Indiana Register. Provides for emergency expenditures. Provides for mandatory reductions in expenditures. Requires that the digest of a budget bill or a conference committee report on a budget bill must contain certain information concerning state appropriations and expenditures. Provides that the current law concerning business cycle state spending controls expires June 30, 2011.

Effective: July 1, 2009.

Borror, Culver, Lehman, Yarde

January 22, 2009, read first time and referred to Committee on Rules and Legislative Procedures.

Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

C O P Y

HOUSE BILL No. 1714

A BILL FOR AN ACT to amend the Indiana Code concerning the general assembly.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 2-2.1-4 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 4. General Expenditure Controls

Sec. 1. This chapter applies after December 31, 2010.

Sec. 2. As used in this chapter, "budget period" means a biennium beginning July 1 of an odd-numbered year.

Sec. 3. As used in this chapter, "controlled state fund" refers to the following:

(1) The state general fund.

(2) The counter-cyclical revenue and economic stabilization fund.

Sec. 4. (a) As used in this chapter, "expenditure" refers to an expenditure from a controlled state fund in a state fiscal year.

(b) The term does not include the following:

(1) A payment of a tax refund or refundable tax credit related to a state tax liability.

(2) A transfer between controlled state funds or accounts within a controlled state fund.

(3) The costs of capital construction and repair except for fee replacement, debt service, and lease rental payments.

(4) The costs of judgments and settlements.

(5) The costs of making motor vehicle excise tax replacement payments.

(6) A distribution or an allocation of state tax revenues to a unit of local government under IC 36-7-13, IC 36-7-26, IC 36-7-27, IC 36-7-31, or IC 36-7-31.3.

(7) A distribution of state tax revenues collected under IC 7.1 that is payable to a city or town.

(8) The costs of providing supplemental distributions under IC 4-33-13-5 to replace riverboat admissions taxes.

(9) A transfer from the state general fund to the build Indiana fund required under IC 4-33-13-5(d).

(10) A distribution of state tax revenues collected under any other statute that is:

(A) deposited in a controlled state fund; and

(B) payable to a unit of local government.

Sec. 5. As used in this chapter, "IPI growth quotient" refers to the Indiana nonfarm personal income growth quotient determined under section 7 of this chapter.

Sec. 6. As used in this chapter, "state spending cap" for a state fiscal year refers to the limit on expenditures determined under section 8 of this chapter.

Sec. 7. (a) The IPI growth quotient for a specified state fiscal year is the amount determined under STEP FOUR of the following formula:

STEP ONE: For each of the six (6) calendar years immediately preceding the specified state fiscal year, divide:

(A) the Indiana nonfarm personal income for the calendar year; by

(B) the Indiana nonfarm personal income for the immediately preceding calendar year.

STEP TWO: Add the quotients determined under STEP ONE.

STEP THREE: Divide:

(A) the STEP TWO result; by

(B) six (6).

STEP FOUR: Determine the lesser of the following:

(A) The STEP THREE result.

(B) One and six-hundredths (1.06).

(b) Not later than January 31 of each odd-numbered year, the budget agency shall determine the IPI growth quotient for the state fiscal year beginning July 1 of the odd-numbered year.

(c) The budget agency shall publish the IPI growth quotient determined under subsection (b) for a particular budget period in the Indiana Register not later than February 15 of each odd-numbered year. In addition, the budget agency shall publish historic IPI growth quotient data in the Indiana Register not later than July 1 of each odd-numbered year.

Sec. 8. (a) The maximum total expenditure allowed from controlled state funds for a budget period is the sum of the maximum total expenditures allowed from controlled state funds for each state fiscal year of the budget period.

(b) The maximum total expenditure allowed from controlled state funds for the state fiscal year beginning July 1, 2011, is the amount determined under STEP THREE of the following formula:

STEP ONE: Determine the actual total expenditure from controlled state funds for the state fiscal year beginning July 1, 2010.

STEP TWO: Determine the IPI growth quotient for the state fiscal year beginning July 1, 2011.

STEP THREE: Multiply:

(A) the STEP ONE result; by

(B) the STEP TWO result.

(c) This subsection applies to odd-numbered state fiscal years beginning after June 30, 2013. The maximum total expenditure allowed from controlled state funds for the first state fiscal year of a budget period beginning on July 1 of an odd-numbered year is the amount determined under STEP THREE of the following formula:

STEP ONE: Determine the maximum total expenditure allowed from controlled state funds for the state fiscal year beginning July 1 of the immediately preceding even-numbered year, as calculated under subsection (d).

STEP TWO: Divide:

(A) the IPI growth quotient for the second state fiscal year of the immediately preceding budget period; by

(B) the IPI growth quotient for the first state fiscal year of the immediately preceding budget period.

STEP THREE: Multiply the following:

(A) The STEP ONE result.

(B) The STEP TWO result.

(C) The IPI growth quotient for the first state fiscal year of the budget period.

(d) The maximum total expenditure allowed from controlled state funds for the second state fiscal year of a budget period beginning July 1 of an even-numbered year is the amount determined under STEP THREE of the following formula:

STEP ONE: Determine the maximum total expenditure for the first state fiscal year of the budget period, as calculated under subsection (b) or (c).

STEP TWO: Determine the IPI growth quotient for the first state fiscal year of the budget period.

STEP THREE: Multiply:

(A) the STEP ONE result; by

(B) the STEP TWO result.

(e) The budget agency shall publish the maximum total expenditure amounts determined under subsections (a), (b), (c), and (d), as applicable, for the budget period beginning July 1 of an odd-numbered year in the Indiana Register not later than February 15 of the odd-numbered year. Except for revisions to correct calculation errors, the maximum total expenditure amounts published under this subsection remain in effect for the duration of the corresponding budget period.

Sec. 9. Except as provided in sections 10, 11, and 14 of this chapter, the state spending cap for a state fiscal year equals the amount of the maximum total expenditure determined under section 8(b), 8(c), or 8(d) of this chapter, as applicable. The general assembly may not appropriate, and the budget director may not allot, a total sum of expenditures in a state fiscal year that exceeds the state spending cap.

Sec. 10. (a) An increase in the state spending cap, other than by an application of the IPI growth quotient, may occur only if at least one (1) of the following occurs:

(1) A spending responsibility has shifted from another level of government to a controlled state fund.

(2) A spending responsibility has shifted from a fund not limited by this chapter to a fund limited by this chapter.

(3) There has been:

(A) an expansion of:

(i) state services; and

(ii) state spending; and

(B) a tax increase enacted to finance the additional state services and spending.

(b) An increase in the state spending cap for spending described in subsection (a) requires the approval of a two-thirds (2/3) majority of the house of representatives and a two-thirds (2/3) majority of the senate.

Sec. 11. The general assembly, in a regular session, may authorize an emergency appropriation by enacting a supplemental appropriations act and a joint resolution that contains all the statements described in section 12 of this chapter. A supplemental appropriations act must be approved by a two-thirds (2/3) majority of the house of representatives and a two-thirds (2/3) majority of the senate.

Sec. 12. A joint resolution described in section 11 of this chapter must contain the following:

(1) A statement that all spending authorized in the act exceeds the limit of the state spending cap.

(2) A description of the amount of emergency expenditures and an explanation of the specific circumstances that created the need for a supplemental appropriation.

Sec. 13. Except as allowed in an emergency appropriation under section 11 of this chapter, all appropriations for expenditures for a state fiscal year, including continuing appropriations, are void if the total amount appropriated for expenditures exceeds the amount allowed by the state spending cap for the state fiscal year under this chapter. If the appropriations for a state fiscal year are voided under this section, the general assembly in a regular or special session may reappropriate an amount that does not exceed the amount allowed by the state spending cap under this chapter.

Sec. 14. (a) Subject to subsection (c), reductions in the state spending cap are mandatory in each year when spending responsibility is:

(1) shifted from a controlled state fund or to another level of government; or

(2) transferred from a controlled state fund to a fund that is not limited by this chapter.

The state spending cap must be decreased by the amount of the shift or transfer.

(b) The amount of the state spending cap reduction shall be determined by the budget agency upon the recommendation of the budget committee by a simple majority vote.

(c) If the budget agency determines that:

(1) the amount of a state spending cap reduction required under subsection (a) is less than one-tenth of one percent

(0.1%); or

(2) there is a need to waive the mandatory downward adjustment;

the state spending cap reduction must receive a unanimous recommendation from the budget committee to take effect.

SECTION 2. IC 2-2.1-5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 5. Budget Bill Requirements

Sec. 1. This chapter applies after December 30, 2010.

Sec. 2. As used in this chapter, "controlled state fund" has the meaning set forth in IC 2-2.1-4-3.

Sec. 3. As used in this chapter, "digest" refers to the description of the contents of a bill or a conference committee report that is located on:

(1) the cover page of a bill; or

(2) the first page of a conference committee report.

Sec. 4. As used in this chapter, "expenditure" has the meaning set forth in IC 2-2.1-4-4.

Sec. 5. The digest of a budget bill or a conference committee report on a budget bill must contain the following information:

(1) The total amount of appropriations from controlled state funds.

(2) The total amount of appropriations for expenditures subject to IC 2-2.1-4 from controlled state funds.

(3) The expenditure limit for controlled state funds established under IC 2-2.1-4.

SECTION 3. IC 4-10-21-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 0.5. This chapter expires June 30, 2011.**

SECTION 4. IC 4-13-2-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18. (a) For the purpose of the administration of the allotment system provided by this section, each fiscal year shall be divided into four (4) quarterly allotment periods, beginning respectively on the first day of July, October, January, and April. However, in any case where the quarterly allotment period is impracticable, the ~~state~~ budget director may prescribe a different period suited to the circumstances but not extending beyond the end of any fiscal year.

(b) Except as otherwise expressly provided in this section, the provisions of this chapter relating to the allotment system and to the encumbering of funds shall apply to appropriations and funds of all kinds, including standing or annual appropriations and dedicated funds, from which expenditures are to be made from time to time by or under the authority of any state agency. However, the provisions relating to the allotment system shall not apply to moneys made available for the purpose of conducting a postaudit of financial transactions of any state agency. Likewise, appropriations for construction or for the acquisition of real estate for public purposes may be exempted from the allotment system by the ~~state~~ budget director, but in such cases ~~he~~ **the budget director** shall prescribe such regulations as will insure the proper application and encumbering of funds.

(c) No appropriation to any state agency shall become available for expenditure until:

(1) such state agency shall have submitted to the ~~state~~ budget agency a request for allotment, such request for allotment to consist of an estimate of the amount required for each activity and each purpose for which money is to be expended during the applicable allotment period; and

(2) such estimate contained in the request for allotment shall have been approved, increased, or decreased by the ~~state~~ budget director and funds allotted therefor as hereinafter provided.

The form of a request for allotment, including a request by hand, mail, facsimile transmission, or other electronic transmission, shall be prescribed by the ~~state~~ budget agency with the approval of the auditor of state and shall be submitted to them at least twenty-five (25) days prior to the beginning of the allotment period.

(d) Each request for allotment shall be reviewed by the ~~state~~ budget agency and respective amounts therein shall be allotted for expenditure if:

(1) the estimate therein is within the terms of the appropriation as to amount and purpose, having due regard for the probable future needs of the state agency for the remainder of the fiscal year or other term for which the appropriation was made; and

(2) the agency contemplates expenditure of the allotment during the period.

Otherwise, the ~~state~~ budget agency shall modify the estimate so as to conform with the terms of the appropriation and the prospective needs of the state agency and shall reduce the amount to be allotted accordingly. The ~~state~~ budget agency shall act promptly upon all requests for allotment and shall notify every state agency of its allotments at least five (5) days before the beginning of each allotment period. The total amount allotted to any agency for the fiscal year or other term for which the appropriation was made shall not exceed the amount appropriated for such year or term.

(e) The ~~state~~ budget director shall also have authority at any time to modify or amend any allotment previously made by ~~him.~~ **the budget director.**

(f) In case the ~~state~~ budget director shall discover at any time that:

(1) the probable receipts from taxes or other sources for any fund will be less than were anticipated; and

(2) as a consequence the amount available for the remainder of the term of the appropriation or for any allotment period will be less than the amount estimated or allotted therefor;

~~he~~ **the budget director** shall, with the approval of the governor, and after notice to the state agency or agencies concerned, reduce the amount or amounts allotted or to be allotted so as to prevent a deficit.

(g) This subsection applies to state fiscal years beginning after June 30, 2011. The definitions in IC 2-2.1-4 apply throughout this subsection. Allotments for a state fiscal year that exceed the state spending cap are void. The budget agency shall allot money for an appropriation, including an appropriation that is not made in a specific amount, to provide that the total allotment for expenditures from controlled state funds in a state fiscal year does not exceed the state spending cap. If the budget director discovers that the projected expenditures for the remainder of a state fiscal year will probably exceed the state spending cap, the budget director shall, with the approval of the governor and after notice to the state agency or agencies concerned, reduce the amount or amounts allotted or to be allotted to prevent a total allotment that exceeds the state spending cap.

~~(g)~~ **(h)** The ~~state~~ budget agency shall promptly transmit records of all allotments and modifications thereof to the auditor of state.

~~(h)~~ **(i)** The auditor of state shall maintain as a part of the central accounting system for the state, as hereinbefore provided, records showing at all times, by funds, accounts, and other pertinent classifications, the amounts appropriated, the estimated revenues, the actual revenues or receipts, the amounts allotted and available for expenditure, the total expenditures, the unliquidated obligations, actual balances on hand, and the unencumbered balances of the allotments for each state agency.

~~(i)~~ **(j)** No payment shall be made from any fund, allotment, or appropriation unless the auditor of state shall first certify that there is a sufficient unencumbered balance in such fund, allotment, or appropriation after taking into consideration all previous expenditures to meet the same. In the case of an obligation to be paid from federal

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funds, a notice of federal grant award shall be considered an appropriation against which obligations may be incurred, funds may be allotted, and encumbrances may be made.

~~(j)~~ **(k)** Every expenditure or obligation authorized or incurred in violation of the provisions of this chapter shall be void. Every payment made in violation of the provisions of this chapter shall be illegal, and every official authorizing or making such payment, or taking part therein, and every person receiving such payment, or any part thereof, shall be jointly and severally liable to the state for the full amount so paid or received. If any appointive officer or employee of the state shall knowingly incur any obligation or shall authorize or make any expenditure in violation of the provisions of this chapter, or take any part therein, it shall be ground for ~~his~~ **the officer's or employee's** removal by the officer appointing ~~him,~~ **the officer or employee,** and if the appointing officer be other than the governor and shall fail to remove such officer or employee, the governor may exercise such power of removal after giving notice of the charges and opportunity for hearing thereon to the accused officer or employee and to the officer appointing ~~him.~~ **the officer or employee.**

SECTION 5. [EFFECTIVE JULY 1, 2009] **(a) IC 2-2.1-4, as added by this act, applies only to appropriations and allotments for state fiscal years that begin after June 30, 2011.**

(b) IC 2-2.1-5, as added by this act, applies to a regular session of the general assembly that begins after June 30, 2010.

(c) This SECTION expires December 31, 2011.